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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/742,324	12/19/2003	David P. Ress	7000-296	5773

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WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY, NC 27518

EXAMINER

OVANDO, PABLO R

ART UNIT	PAPER NUMBER
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2609

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/742,324

Applicant(s)

RESS ET AL.

Examiner

Pablo R. Ovando

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 2-9, 17-20, 22-29 and 37-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10-16, 21, 30-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's election with traverse of Group I which includes claims 1-39 and species 5 which corresponds to claims 1 and 10-16 which are directed to a method and claims 21 and 30-36 which are directed to a system in the reply filed on 17 July 2007 is acknowledged. The traversal is on the ground(s) that Group I (claims 1-39) and Group II (claims 40 and 41) are not patentably distinct. This is not found persuasive because the way of receiving a message can be different from the way the message is generated. Examiner considered applicant's remarks regarding the novel feature being in both groups; however, the application is not a PCT, thus the fact that the novel feature is in both groups is irrelevant to the restriction. Additionally, each group is a separate system and method and would require a different search. Examiner also considered remarks regarding species 2, 3 and 4; however, they are not related to the species selected. Additionally each species is a separate embodiment that would require different searches since one is related to a set-up charge and the other to an add-on charge.

In response to applicant's request for further clarification regarding species 6 and 7; species 6 is related to the partial charge interval equal to a number of pulses provided during a charge interval, and species 7 is related to partial charge interval to approximate a tariff pulse rate for the phase, wherein each of those species is an alternative embodiment of the invention which would require different searches.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Hurtta et al, US Patent 6,985,446 (hereinafter referenced as Hurtta).

As to **claim 1**, Hurtta discloses a method for providing metering from a gateway in a packet network comprising:

a) receiving a message comprising a complete call tariff model for controlling all metering in association with a call (col. 7 lines 30-39 teaches that the SGSN transmits the information requested by the service control point (SCP) and receives instructions from the service control point, wherein those instructions can be charging instructions. Additionally, col. 12 lines 59-64 discloses that a tariff is extracted from the charging instructions, and col. 13 lines 1-5 teaches that the tariff can be a set fixed price or different prices for different amounts of data, wherein the price is expressed as metering pulses)".

b) providing pulses to a metering entity during the call according to the call tariff model (col. 7 lines 30-39 teaches that the SGSN transmits the information requested by

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the service control point (SCP) and receives instructions from the service control point, wherein those instructions are charging instructions. Additionally, col. 13 lines 1-5 disclose that the SGSN extracts the metering pulses, hence the SCP provides metering pulses to the SGSN, wherein "metering entity" reads on SGSN).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaczmarczyk et al, US Patent 6,950,441 (hereinafter referenced as Kaczmarczyk) in view of Hurtt et al, US Patent 6,985,446 (hereinafter referenced as Hurtt).

As to **claim 21**, Kaczmarczyk teaches:

a) a packet interface to facilitate communication over a packet network (fig. 1 teaches several interconnected soft switches 10, 12 and 14, each of which interconnects several media switches 16 as disclosed in col. 3 lines 19-23. It is noted that the media switches interact with an IP network as illustrated in fig. 1);

b) a telephony line interface to facilitate communications over a telephony line to either a telephony endpoint having a metering function or a metering device associated with the telephony endpoint (fig. 1 illustrates several interconnected soft switches 10, 12 and 14, each of which interconnects several media switches 16 as disclosed in col. 3

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lines 19-23. It is noted that the media switches interact with a PSTN network, wherein the PSTN network supports analog telephone lines that carry signals);

c) a control system associated with the packet interface and the telephony line interface (It is noted that the control system is composed of the combination of elements which support the PSTN and internet network illustrated in fig. 1 and disclosed in col. 3 lines 34-41 since the soft switch configuration controls the end to end transport of the call through integration of the network intelligence between the two media switches)

Even though Kaczmarczyk discloses that several signaling sessions and features are supported, it does not explicitly disclose a tariff model for controlling all metering.

However; in the same field on endeavor examiner contends that it was well known in the art at the time of the invention was made to include the limitations of sending a call tariff model as evidenced by Hurtta. Hurtta teaches:

- i) receive a message over the packet network comprising a complete call tariff model for controlling all metering in association with a call (col. 7 lines 30-39 teaches that SGSN transmits the information requested by the service control point and receives instructions from the service control point SCP, wherein those instructions can be charging instructions. Additionally, col. 12 lines 59-64 discloses that a tariff is extracted from the charging instructions, and col. 13 lines 1-5 teaches that the tariff can be a set fixed price or different prices for different amounts of data, wherein the price is expressed as metering pulses); and
- ii) provide pulses via the telephony line interface during the call according to the call tariff model (Hurtta teaches expressing the prices as metering

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pulses in col. 13 lines 1-5 and as disclosed above Kaczmarczyk teaches the telephony line interface).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Hurtta in Kaczmarczyk for the purpose of extracting the charging message and having more accurate readings to charge efficiently by noting that "...a fixed price can be set for a certain amount or different prices for different amounts of data transferred within a certain time slot" (col. 13 lines 1-2).

Allowable Subject Matter

Claims 10-16 and 30-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo R. Ovando whose telephone number is 571-272-9752. The examiner can normally be reached on M-F 7:30 am to 5:00pm, EST, Alternating Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.O.


BRIAN TYRONE PENDLETON
SUPERVISORY PATENT EXAMINER